

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Chauncey Girard

Write the full name of each plaintiff.

No. _____

(To be filled out by Clerk's Office)

-against-

(Comm) Eric Gutwein (co) Frank Polito

(Sgt) Jamie Lamanna (co) Tina Tomas

(SGT) Chauntel Elmore (co) Eric Rios

(SGT) Michel Blot (DR) Edwin Uzu

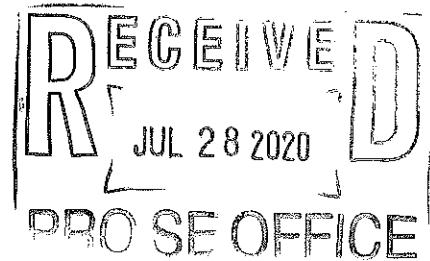
Write the full name of each defendant. If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed above must be identical to those contained in Section IV.

COMPLAINT

(Prisoner)

Do you want a jury trial?

☒ Yes ☐ No



NOTICE

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.

I. LEGAL BASIS FOR CLAIM

State below the federal legal basis for your claim, if known. This form is designed primarily for prisoners challenging the constitutionality of their conditions of confinement; those claims are often brought under 42 U.S.C. § 1983 (against state, county, or municipal defendants) or in a "Bivens" action (against federal defendants).

☒ Violation of my federal constitutional rights

☒ Other: Assault and Battery Deliberate Indifference to eccenelace/Denial of medical

II. PLAINTIFF INFORMATION

Each plaintiff must provide the following information. Attach additional pages if necessary.

Chauncey T Girard
First Name Middle Initial Last Name

Chauncey Girard
State any other names (or different forms of your name) you have ever used, including any name you have used in previously filing a lawsuit.

11A1352
Prisoner ID # (if you have previously been in another agency's custody, please specify each agency and the ID number (such as your DIN or NYSID) under which you were held)

Clinton C.F. Po. Box 2001 Dannamora New York 12929
Current Place of Detention

Clinton C.F.
Institutional Address

Clinton Dannamora New York 12929
County, City State Zip Code

III. PRISONER STATUS

Indicate below whether you are a prisoner or other confined person:

☐ Pretrial detainee

☐ Civilly committed detainee

☐ Immigration detainee

☒ Convicted and sentenced prisoner

☐ Other: _____

IV. DEFENDANT INFORMATION

To the best of your ability, provide the following information for each defendant. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are identical to those listed in the caption. Attach additional pages as necessary.

Defendant 1:	Eric	Gutwein	
	First Name	Last Name	Shield #
	Commissioner		
	Current Job Title (or other identifying information)		
	Harriman State Campus		
	Current Work Address		
	1220	washington Ave	Albany NY 12226
	County, City	State	Zip Code
Defendant 2:	Eric Jamie	Lamanna	
	First Name	Last Name	Shield #
	Superintendent		
	Current Job Title (or other identifying information)		
	Green Haven C.F.		
	Current Work Address		
	Stormville	New York	12582
	County, City	State	Zip Code
Defendant 3:	Michel	Blot	
	First Name	Last Name	Shield #
	(SGT)		
	Current Job Title (or other identifying information)		
	Green Haven C.F.		
	Current Work Address		
	Stormville	New York	12582
	County, City	State	Zip Code
Defendant 4:	Chantel	Elmore	
	First Name	Last Name	Shield #
	(SGT)		
	Current Job Title (or other identifying information)		
	Green Haven C.F.		
	Current Work Address		
	Stormville	New York	12582
	County, City	State	Zip Code

Defendant 5:

Frank Polito
 Name (First) (Last)
 Correction Officer
 Job Title
 Green Haven CF Po Box 4000
 Current work address
 Stormville New York 12582 ZIP code
 County City State Shield #

Defendant 6:

Elvis Rios
 Name (First) (Last)
 Correction Officer
 Current Job Title
 Green Haven C.F. Po Box 4000
 Current work address
 Stormville New York 12582
 County City State Shield # ZIP code

Defendant 7:

Edwin J20
 Name (First) (Last)
 Doctor
 Job Title
 Green Haven C.F. Po Box 4000
 Current work address
 Stormville New York 12582
 County City State Shield # ZIP code

Defendant 8:

Tina Tomas
 Name (First) (Last)
 Correction Officer
 Job Title
 Green Haven C.F. Po Box 4000
 Current work address
 Stormville New York 12582
 County City State Shield # ZIP code

Defendant 9:

Jane Doe

V. STATEMENT OF CLAIM

Place(s) of occurrence: Green Haven CF. Po Box 4000 Stormville N.Y. 12582

Date(s) of occurrence: 7-31-2018

FACTS:

State here briefly the FACTS that support your case. Describe what happened, how you were harmed, and how each defendant was personally involved in the alleged wrongful actions. Attach additional pages as necessary. (See Pages Attached 5-10)

On the Date of 7-31-2018 I Requested "Emergency Sick Call" at this time (Co) Tomas responded by calling the (SGT) Chauntel Elmore and (Co) Frank Polito at this time I had a Stomach Injury that gave me problems breathing, a left shoulder injury that due to surgery gave me loss of Range of motion (see Medical Record Dated 9-11-2017) before the assault happened at this time my locking location was G-Block 348 cell in which (SGT) Elmore and (Co) Frank Polito requested me to put my hands behind my back to be handcuffed I stated that my arm has loss of range of motion, and they stated a Direct order, so despite the fact I had Injuries and did not consent to the handcuffing I was placed in handcuffs inside the cell then taken out and was placed on the wall where (Co) Frank Polito sexually molested me by grabbing inside of my pants and said nice, I asked (SGT) Elmore her name because she was standing there and didn't do anything to prevent the sexual assault I was then taken off of 3 Company in which witnesses Harris Pin 95A4995 and Antonio McNeil 16A2532 witnessed the assault upon going off of 3 Company going on 2nd Company and on 2nd Company going to the first Company I was then sworn at by (Co) Frank Polito and with Malicious Evil intent unwarranted which no medical staff were call as Standard procedure to the response of Emergency Sick Call accompanied by (Co) Ross I was repeatedly assaulted in handcuffs

(See Pages attached 5-10)

United States District Court
Southern District of New York

Chauncey Girard

Case No. [REDACTED]

-against-

Jamie Lamanna (Supt)
Eric Gutwinne (Commissioner)
(Sgt) Chauntel Elmore
(Sgt) Michel Blot
(Co) Elvis Rios
(Co) Frank Polito
(Dr) Edwin UZU

(Co) Tina Tomas

Please be advised that the plaintiff in the above Case and caption would request that this Court would add and amend his Complaint with the above additional persons would take "Adverse action" in which they had a "Causal connection" in which the Plaintiff would have a "Protected Conduct" a right to Emergency Sick Call all acting malicious to hurt the plaintiff in Concert to the Original Complaint the Plaintiff now request to make a "Complaint" here are the acts as followed:

On the date of 7-31-2018 around 10:30 am Stemming from a Previous stomach /Chest Injury I had chest pains and stabs in my stomach which I the Plaintiff could not breath(See Declarations 1-3) so I requested "Emergency Sick Call" from Defendent(Co) Tina Tomas of G- Block Green Haven C.F. P.O. Box 4000 Stormville New York 12582 in which Directive 2124 was nt followed in which requires the medical unit to come to your destination when your unable to breath. Fifteen minutes later instead of a emergency response from a medical unit Defendent (Co) Frank Polito and Defendent (Sgt) Chauntel Elmore would show up to the housing unit of G-Block 348 locking location and order the plaintiff to turn around to be handcuf inside the cell in order to obtain medical services which Violates the plaintiffs due process of Law (Buckner v Hollins 983 F2d 119 123 8th Circut 1993) while inside of housing unit G-348 cell behind the back . Defendent (Co) Polito then opened the cell pursuant order and by force (Co) Polito pushed plaintiff and I went to the wall at this time the Plaintiff was then sexually groped by (Co) Polito then the defendent Frank Polito , unwarranted put his hands Down the plaintiffs pants and grabbed his genitals and said nice

Plaintiff tried to move away(Lewis V Richard 109 F3d 544 553-54 7th Cir (1997) Plaintiff turned toward Defendant (Sgt) Elmore and asked her for her name 5th Amend and 14th Amend Violation ,with Violation of Directive 4028A and 8th amendment violations (Sgt) Chauntel Elmore gave plaintiff her name Plaintiff was still in bad pain besides being humiliated still continued to go with the trip without medical emergency response.(See medical records previous of 2-24-2018 Exhibit 4 Emergency response was done by Directive 2124 . Upon walking from the third deck to second deck the plaintiff was just about to go to the first deck gallery Correction officer defendant Frank Polito pulled his pin and punched me in the face

willfully and maliciously without Provocation or just cause. I tried to run away and get away from being hit on the second deck gallery 5 Company where others could see the assault and battery take place (Co) polito Continued to punch plaintiff in the face and in the stomach (See Exhibit 5 Pictures) and(Exhibit 6 Medical records B-1-2018 of blood inside of Urine) . Then (Co) Elvis Joined him left his post and began to punch the plaintiff so he was getting hit on both sides handcuffed behind the back Defendant Polito punched plaintiff twice in the face and once in the stomach,defendant (Co) Elvis Rios hit the plaintiff in the face twice willfully and maliciously unwarranted.(Locicero v ocnell 419 F Supp 2d 521 428-29 SDNY 2006) also Hudson v Mc Millian 503 US (9-10 1992) Plaintiff recived abrasions on his wrist that were visable after 9 days from the Assault and Battery in handcuffs behind the back Exhibit 7 Medical record 8-8-2018 plaintiff still had these abrasions on wrist. (Corselli v Coughlin 842 F2d 23 27 2d Cir 1988 ,Also see Moore v Agosto 93 Civ 4835 1996 WL 125660 at (SDNY) March 20th 1996. The Deliberate Indifference from Defendant (Sgt) Chauntel Elmore during the assault would violate the Plaintiff's 8th Amend and the violation of the directive Chapter 5 250.2(a)(b)(c)(d)(e)(f) and (g) to be free from assault and to be without mechanical restraints as a way as a "Disiplinary action" "Evil Intent" Induced by the defendant Elmore.(Smith v Wade 461 US 30 56 103 Sct 1640 75 Led 2d 632 651(1983) These Officers Defendant 's (Co) Frank Polito and (Co) Elvis Rios then Both sprayed Plaintiff with Maliciousness and brutality Continued to assault the plaintiff this was unprovacted and without warrent as the Plaintiff was on

The second Company floor and Defendant(Sgt) Michel Blot would come and join into the assault he began to push and hit and punch the plaintiff and pushed the plaintiff down the stairs and once in front of G-Block still hitting and Punching these assaults were not warranted and malicious , and then with evil Intent to hurt the plaintiff the defendant (Sgt) Micheal Blot would willfully Order Defendant (Co) Polito to throw the plaintiff down on the concrete face first to cause pain and suffering while the plaintiff was still handcuffed behind his back defenseless in where plaintiff would bust his eye wide open and on his left eye would need stitches Blood was everywhere (See Exhibit 5 Pictures and See Exhibit 8 Medical records from outside hospital 8-1-2018 at this time plaintiff started to yell in anguish and (Sgt) Blot and (Co) Polito with (Co) Elvis Rios would began to all beat the plaintiff on the floor this beating was unwarranted and maliciously done to hurt plaintiff until I stopped yelling then they grabbed me and escorted the plaintiff down the hall and just before you get to the hallway going to the S.H.U. E - Block hallway on the Corner of Building 2 Plaintiff would open his right eye and state (Sgt) Blot and Defendant (Sgt) Micheal Blot would cause more pain and anguish and punch the plaintiff in the right eye and bust it wide Open (See Exhibit 5 Pictures and Exhibit 8 Medical records from 8-1-2018 from outside hospital Putnum) . Also see Declarations from Hilbert Stanley 08A3572 to confirm Exhibit 9) and also Exhibit 10 Declaration from Jamie Bowman 11-A-1833 both Sworn to on the 21st of August 2018 Who are both willing to testify on behalf of the Plaintiff and who would also be witnesses to being subject to assaults by Staff in handcuffs in this Correctional Facility Green Haven

Griffin v Crippen 193 F.3d 89 91-92 2 Cir 1999) Smith v Marcellus 917 F Supp 108 171-73 W.D.N.Y. they the Defendant(s) tried to Cover up the assault by further bringing the plaintiff to S.H.U. Plaintiff was never taken to his Emergency Sick Call Request, Blayden v Macusi 186 F3d 252 ,264 (2d Cir 1999) also see Merriweather v Coughlin 879 F2d 1037 1048(2nd Cir 1989) Jones v Huff 784 F Supp 535-36 N.D.N.Y. 1992 false Charges were brought upon the plaintiff to cover Up the assault as well which would Violate Administrative Directive Chapter 5 250.2 (e)(g) Disciplinary actions were Arbitrary and Capricious in advert action against the plaintiff to hurt his pending 1983 action and to retaliate for revenge. Due to the fact that the Plaintiff did not do anything

did not do anything wrong and was with Injury(s) that caused the Plaintiff stitches and scaring Concussion and Internal bleeding Plaintiff would only receive the medical attention that was needed because he stated that he was suicidal ,and Due to the fact that the Green Haven had a full Observation Unit Plaintiff was taken to DownState Correctional Facility where he stayed the night bleeding Internally until the next day he was taken to the Infirmary where Plaintiff was then rushed to the outside hospital and given treatment for his pending Injurys (Hudson v Mc Millian 503 US 1,9,10 (1992) Davdson v Flynn 32 F3d 27 29 (2d Cir 1994) Plaintiff recived more then deminimus Injury(s) his face was three times his normal face size , ,a Eye fracture of his right eye socket has still not been treated , a Internal Stomach Injury and a left shoulder Injury that he has limited range of motion in would take away the plaintiffs normal way of living, Plaintiff Suffered Pysical and mental Permanet Injury Plaintiff still has unresolved Injury(s) from this Unhumane assault and battery inside of handcuffs behind the back from requesting emergency Sick Call that was un warrented Cruel and Unusual punishment 8th Amendment violation . After being brought back to the same place of assault the plaintiff latter grieved this assault and battery sexual assault and failure to protect ,with medical Indifference, and it was under "PREA" Guidelines (See Grievance 90072-18) Plaintiff also wrote Superintendent Jamie Lamanna Sworn to before on 9-10-2018) Exhibit(s) 9 and 10) in which (Supt) J Lamanna would become Personally involved by being deliberately Indifferant to the Saftey and Security (Dep) Russo would be Contacted in the same infront of Albany and Personally Continued to argue with Plaintiff instead of reassuring the saftey and Security of the Plaintiff in front of Mr. Amoto(See Exhibit 11 Affidavit) Nothing was done to help the Plaintiff Defendent (Sgt) M. Blot was even allowed to further threaten the plaintiff on Camera (see Exhibit from Jamie Boman Affidavit Sworn to on 8-15-2018) in which the plaintiff's life was threatened to be killed by the same Officer that beat him up in handcuffs and wouldbe known for assaultive behaivor on offenders, Poe v Lenard 282 F3d 123 140 2d Cir 2002 Merris v Eversley 206 F Supp 2d 234-42 SDNY . The PREA Investigation was not in accordance to the "Prea" Directive (Sgt) Goings and (RN) Felix would fail to report this prea Violation to OSI as Directed by Directive 4028A 5(6) in accordance to 0700 Directive this never happened, in

which the personal involvement would be adverse action and due to there deliberate Indifference it was never reported to an Outside agency . During the time that the Plaintiff was at Green haven still he was denied the right to medical Defendant Edwin UZU would knowingly know that the plaintiff would have a limited range of motion in his left shoulder and would violate the plaintiff's eighth Amend by not giving him a front handcuff pass in which plaintiff had a medical callout for his left shoulder and would be subject to an attempted assault by Officers (Sgt) Kat and (Co) Colombo in which plaintiff was subject to them trying to force the plaintiff to be handcuffed behind the back (See Exhibit 12 Affidavit from David Mead dated 9-18-2018 Declaration) stating the personal Involvement Denial of medical Attention. there was front handcuff Chains they would try to get me into the the back handcuffs to assault me again. Smith v Wade 461 U.S. 30 56 103 S.Ct 1640 75 Led 2d 632 651 (1983) . Plaintiff would explain this to the Hearing Officer Eric Gutwien and the hearing officer would show "adverseAction" by becoming apart of the Deliberate indifference it was told to him that these charges were fake and not real Instead the Defendant Gutwien would not give judgement based on the light of or the weight of the evidence and instead became a personal liability By Violation of Due Process (Brook v Scully 132 Misc 2d 513 519 504 NYS 2d 389 Sup ct 1986 also see Giano v Sullivan 709 F Supp 1209 1215 (SDNY 1989) and Burke v Coughlin 97 AD 2d 862 469 NYS 2d 240 242 (3rd Dept 1983) Moye v Selsky 826 FSupp 712 716-17 SDNY 1993 and the fact that defendant Eric Gutwein's judgement would have predetermined judgement and would Violate the Plaintiffs right to call witnesses 2 out of 11 witness were called no refusal forms were signed plaintiff showed all evidence to show that he the plaintiff was assaulted by staff in handcuffs behind the back for requesting emergency Sick Call, Defendant Gutwien would not make Judgment based on the facts of the hearing and defendant (Co) Polito's failure to refute the facts that stated at the hearing . Frances v Coughlin 891 F2d 43 96 (2d Cir 1989) Wolff V Mc Donnell 418 U.S. 539 564 94 Sct 2963 2979 41 Led 935(1974) (See Exhibit 13 Dated sept 10th 2018) the Testimony of Harris 95A4995 and of A Mc Neil 16A2532 . The plaintiff would request that the Declarations of all persons would testified and was not afforded the right to testify and wanted

to would be afforded a chance to receive declarations of Harris 95A4995 and A Mc neil 16A2532 and Defendant Eric Gutwein's Personal Involvement , and Not making a determination based on the overwhelming Evidence or Contradiction of testimony , and or the failure to refute the facts that the plaintiff was assaulted sexually by (Co) Frank Polito in handcuffs and the Violation of due process by trying to deceive the plaintiff by bribe to say that he would release plaintiff from S.H.U. in return for the non testimony of Defendant(sgt) Elmore the failure to not give the charges against within 24 hours or the fact that the plaintiff did not receive a disposition from the Defendant Eric Gutwein at all (See Exhibit s 14 and 15).

Dr Edwin UZU Defendant would cancel the plaintiff's MRI that was scheduled (See Exhibit 16 Grievance 90326-18 and would become personally involved Deliberate Indifferant to the plaintiff's Injury's and needs for medical Loyd V lee 570 F.Supp 2d 556 568-69 (SDNY 2008) Delaying treatment causing more pain and anguish to Injury Brock V Wright 315 f3d 163(2d Cir 2003) Cole V Fischer 416 Fed App 111 ,113(2d Cir 2011) and the fact that the plaintiff still has serious Injury's in his right eye socket and in his left shoulder in which gives him trouble doing regular activities and human functions Roehl v dalsheim 85 F3d 86 88 2d Cir 1996 All of the said defendant(s) that are Mentioned in this Amended Complaint are personally involved in the Assault and battery that took Place on 7-31-2018 to the plaintiff in which Plaintiff requested Emergency Sick Call and was further Assaulted causing more pain to already exsisting injuries Being,Deliberate Indifferant,failed to Protect .

For the Extreme Pain and Suffering of the above mentioned the Plaintiff would request the Punitive damages of 5,000,000.00 the sum of five ~~hundred thousand~~ ^{million} dollars for the Assault and battery in Handcuffs Deliberate Indifferenc to Medical and Failure to Protect. and sexual assault by staff and any additional releif the Court deems Just and Proper.

Dated: _____

I Have read the forgoing Complaint and hereby verify that the matter alleged therein are trueas Information and belief and as to those matters I believe them to be true Under Penalties of Perjury CPLR 2106 that the foregoing is true and Correct.

in the face 2 times in face and punched once in stomach by Co Polito and I was hit in face 2 times in face by (Co) Rios all in handcuff they also spray me with mace over and over 3 times and instead of receiving the medical treatment needed I was accompanied by (Sgt) Michael Blat in which he also continued to assault me as well in which his assaults caused stitches to my face and tearing tissue (see pictures and medical record from 8-1-2018) also see declarations from Hilbert Stanley 08A3572 and Jamie Boman 11-A-1833 sworn to August 21st 2018, Plaintiff was then unlawfully confined in SFV where Kevin Oller Eric Gutierrez was Arbitrary and Capricious instead of helping become personally involved these injuries today have still not been treated (see Pages 5-10 of complaint) attached

INJURIES:

If you were injured as a result of these actions, describe your injuries and what medical treatment, if any, you required and received.

I received Injuries on top of the already existing injuries, my Stomach was bled internally, where I had Blood inside of my urine (See Medical Records 8-1-2018) a fractured eye socket Right eye Left shoulder would need another surgery procedure, back has gotten worst I can't do regular activities throught the day, I wake up everyday in pain. Its hard to breath due to stomach injury and its hard to move around going to the bathroom getting out of Bed due to Back

VI. RELIEF I also have mental anguish in which I had to recieve counseling for and medication to go to sleep over 36 session of counseling Injury.

State briefly what money damages or other relief you want the court to order.

I would like the money damages of 5,000,000.00 dollars for the relief of physical pain and suffering, mental anguish During and after the medical expenses for surgery and other medical treatment to rehabilitate my injuries after surgery, PTSD medication and Mental rehabilitation treatment sessions.

VII. PLAINTIFF'S CERTIFICATION AND WARNINGS

By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I understand that if I file three or more cases while I am a prisoner that are dismissed as frivolous, malicious, or for failure to state a claim, I may be denied *in forma pauperis* status in future cases.

I also understand that prisoners must exhaust administrative procedures before filing an action in federal court about prison conditions, 42 U.S.C. § 1997e(a), and that my case may be dismissed if I have not exhausted administrative remedies as required.

I agree to provide the Clerk's Office with any changes to my address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

7-23-2020

Dated		Plaintiff's Signature	
Chamcey	T	Girard	
First Name	Middle Initial	Last Name	
Clinton	C.F.	PO Box 2001	
Prison Address			
Danmora	New York	12929	
County, City	State	Zip Code	

Date on which I am delivering this complaint to prison authorities for mailing: _____

Chamney (#1302
Clinton (.
PO Box 2001
Dannunzio New York 12929

Date: 7-23-2020

United States District Court
Southern District Court Daniel Patrick
Moynihan United States Court house 500 Pearl Street
Room 230
New York, New York 10007

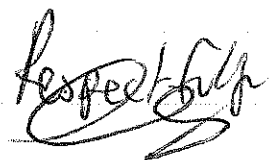
Dear Clerk of the Court

Good Day to you.

Please be advised that I am respectfully
submitting this Completed 1983 with Poor
Person Papers for the Assault and Battery
and the Medical Deliberate Indifference
Complaint. Thank You.

Thank You for your time and consideration

cc/:

Respectfully


NEW YORK STATE

DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION
CLINTON CORRECTIONAL FACILITY

P.O. BOX 2661
DANNEMORA, NEW YORK 12929

NAME:

Chancey Grad DIN: 1/A1352

RECEIVED
JUL 28 2020
PRO SE OFFICE

- Legal Mail -

Clinton



Correctional Facility

NEUPOST

07/24/2020

US POSTAGE \$000.85



ZIP 12929
041M11272305

United States District Court
Southern District Court Daniel
Patrick Moynihan United States Court
House 500 Pearl Street
Room 230

New York New York 10007

1000731390 C014